



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,036	04/21/2004	Robert E. Bryant	P06715US00	7444

22885 7590 07/14/2006

MCKEE, VOORHEES & SEASE, P.L.C.  
801 GRAND AVENUE  
SUITE 3200  
DES MOINES, IA 50309-2721

EXAMINER

SHAW, ELIZABETH ANNE

ART UNIT PAPER NUMBER

3644

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

10/829,036

**Applicant(s)**

BRYANT, ROBERT E.

**Examiner**

Elizabeth A. Shaw

**Art Unit**

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-67 is/are pending in the application.
- 4a) Of the above claim(s) 22-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10, 20, 21 and 67 is/are rejected.
- 7) ☒ Claim(s) 6-9, 11-19 and 66 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Grootheest et al. Van Grootheest et al show a hog farrowing system capable of being used in cold environments comprising a farrowing building , a plurality of farrowing boxes 1 within the farrowing building having an entrance 6 to permit the ingress and egress of the female hogs but not the piglets such that the female hogs may enter the alley between the boxes 1 to move, feed and relieve themselves. Van Grootheest et al discloses at col. 2, lines 60-62 that the pig pen is installed in a barn. However, it is silent as to the particularities of the barn, such as it being a hoop or pole barn. The examiner takes Official Notice that hoop and pole barns are well known in the art and the selection of either type of barns would have been within the knowledge of one skilled in the art as a preferred type of housing.

Claims 2, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Grootheest et al in view of Nehring (4,442,792). Van Grootheest et al does not disclose a non heated building or a common location for feed and watering stations. Nehring shows a hog farrowing building, capable of being heated by the sunlight during the day but utilizing no supplemental heater (col. 2, lines 25-34), having boxes 26, an

Art Unit: 3644

alley 14 and common feeding/waterer stations 16. With respect to claim 20, to use the common feeding stations of Nehring with the system of Van Grootheest et al would have been obvious to one skilled in the art in order to entice the female hogs to leave the box and then to further encourage the movement of the piglets when they are older. With respect to claim 2, to use the non-heated barn of Nehring with the system of Van Grootheest et al would have been obvious to one skilled in the art as a well known barn of the art and to provide weather protection for the animals without incurring excessing heating costs. With respect to claim 21, to use the twelve foot measurement of the feeding stations of the combination of Van Grootheest et al and Nehring would have been obvious to one skilled in the art in order to allow a maximum number of animals to feed comfortably at the same time

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Grootheest et al in view of Your Future Dairy Barn: Will it be Cold, Have a Modified Environment or be Warm? ([www.omafra.gov.on.ca/english/engineer/facts/94-043.htm](http://www.omafra.gov.on.ca/english/engineer/facts/94-043.htm)). Van Grootheest et al does not disclose a non-insulated building. Your Future Dairy Barn teaches the use of cold free stall barns which are not insulated, pg 2-3. With respect to claim 3, to use the non-insulated building of Your Future Dairy Barn with the system of Van Grootheest et al would have been obvious to one skilled in the art in order to provide shelter at a minimum of cost.

Claim 67 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Grootheest et al in view of Jaeger et al (2004/0031444). Van Grootheest et al does not disclose the use of a thermostat sensor. Jaeger et al teaches a control device for a

Art Unit: 3644

heating apparatus for use in farrowing crates having a sensor 22 which determined the temperature of the room 40 and power is either reduced or increased to the heating devices 30. With respect to claim 67, to use the device of Jaeger et al with the farrowing boxes of Van Grootheest et al would have been obvious to one skilled in the art to maintain the best environment for the animals at a constant, comfortable temperature.

### ***Allowable Subject Matter***

Claims 6-9, 11-19 and 66 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments filed April 26, 2006 have been fully considered but they are not persuasive. The addition of "choice" to the claims does not further define the invention. The hogs in the boxes would be able to choose to leave the box in the reference of Van Grootheest. This would simply require that the door to the box not be closed by the farmer or even if the gate does not latch properly and could be opened by the animal. Since the Applicant has not traversed the subject matter discussed under Official Notice, this is now considered to be admitted prior art.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

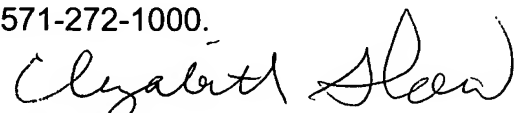
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Shaw whose telephone number is 571-272-6908. The examiner can normally be reached on M-Th 10:00-3:30.

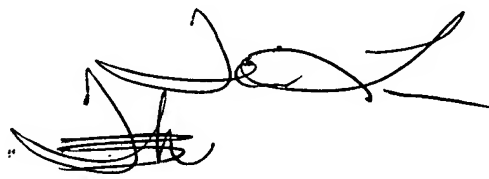
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Elizabeth A. Shaw  
Examiner  
Art Unit 3644

July 7, 2006

  
TERI PHAM LUU  
SUPERVISORY  
PRIMARY EXAMINER